

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:09cv466**

LEE B. MARTINDALE,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
MICHAEL ASTRUE,)	
Commissioner of Social Security)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court on the parties' Motions for Summary Judgment [Doc. 9] and Judgment on the Pleadings [Doc. 11], and the Magistrate Judge's Memorandum and Recommendation [Doc. 14] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the district court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider these pending motions in the above-captioned action and to submit to this Court a recommendation for the disposition of these motions.

On February 24, 2011, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 14] in this case containing proposed

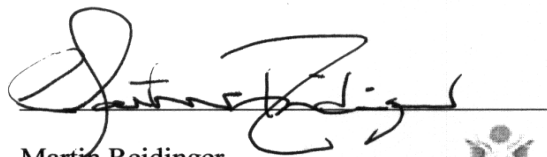
conclusions of law in support of a recommendation regarding the motions [Docs. 9 & 11]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 14], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation that the Defendant's Motion for Summary Judgment be allowed and that the Plaintiff's Motions for Summary Judgment and to Receive New and Material Evidence be denied.

IT IS, THEREFORE, ORDERED that the Defendant's Motion for Judgment on the Pleadings [Doc. 11] is **ALLOWED**, and that the Plaintiff's Motion for Summary Judgment [Doc. 9] is hereby **DENIED**.

IT IS SO ORDERED.

Signed: March 23, 2011


Martin Reidinger
United States District Judge

